

RECEIVED
SDNY PRO SE OFFICEUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2021 DEC -9 PM 2:49

Wilfred Labossiere**21 CV 10538**

(In the space above enter the full names(s) of the plaintiff(s).)

COMPLAINT

-against-

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)Downstate Correctional FacilityJohn Doe (officer) Block Officer "F" Block 3 to 11
shift on July 13, 2019Jury Trial ☒ Yes ☐ No
(Check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Address should be included here)

I. Parties in this Complaint

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name Wilfred LabossiereID# 14A2683Current Institution Downstate Correctional FacilityAddress 121 Red school house RdFishkill NY 12524

- B. List all defendants' names. Positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of papers as necessary.

Defendant No. 1 Name N. Baxter Shied # _____
 Where Currently Employed Downstate Correctional Facility
 Address 121 Red Schoolhouse RD
Fishkill Ny 12524

Defendant No. 2 Name _____ Shied # _____
 Where Currently Employed _____
 Address _____

Defendant No. 3 Name _____ Shied # _____
 Where Currently Employed _____
 Address _____

Defendant No. 4 Name _____ Shied # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shied # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claim. Do not cite any case or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? _____
Downstate Correctional Facility
- B. Where in the institution did the events giving rise to your claim(s) occur? _____
4 complex "F" Block
- C. What date and approximate time did the events giving rise to your claim(s) occur? _____
3 to 11 shift

What happened to	D. Facts: On July 13, 2019 Officer N. Baxter working 3 to 11 pm shift inter
	interfered with my access to treatment and was deliberately ind#fferent to
	my health/.He refused to follow doctor's orders for my treatment for and invasive
	surgery performed on my rectum on June 29, 2019. As the surgical area which was
	still bleeding and draining would be exposed to fecal matter on the open wound
Who did What?	after a bowel movement, I must shower to prevent infection by cleaning the area
	in the shower with running water. Officer N. Baxter refused my two two request
	for a shower (which is next door to my cell). Yet, he allowed cells F8,F5,F27
	F2 and F30 all out to walk their training dogs outside the block and check there
	laundry in the washing machine. see greivence DS-5655-19 for full details attacted.
Was anyone else involved?	As this is not the first incident with this officer Ive had to report and or the
	The last as shortly after I was transfered to his main block he works the 7 to 3
	shift a messhall block. I didnt understant why I was transfered to his main block
	after the greivence issue as I worked in the Law Library not the messhall. On
	Dec 11, 2019 a cell search was performed and it was claimed that 0.6 grams of
	Marajuana was found in the small locker by N Baxter. At the disposition hearing
	I made it clear that the drugs was not mine. I was drug tested it was found that
Who else saw what?	I'm clean, no drugs was in my system. I appealed the disposition of 30 days keeplock
	with 20 days suspended. On November 20, 2020 the charges was reversed.

See Attached - Greivence ; Ticket ; Disposition

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Stress, mental aguish, physical pain and bleeding

IV. Exhaustion of Administrative Remedies:

The Prisoner Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any or Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes XX No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Downstate correctional faciltiyu

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not know ☐

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all your claim(s)?

Yes ☐ No ☐ Do Not know ☒

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other facility correctional where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint, where did You file the grievance?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the Grievance?

Downstate Correctional Facility

1. Which claim(s) in this complaint did you grievance

All

2. What was the result, if any?

I was investegated

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to The highest level of the grievance process.

I was Appealed to Albany

F. If you did not file a grievance:

1. If there are any reason why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any official of your claim, state who you informed, when and how, and their response, if any: _____

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I was interveiwed by the area seargent

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, That you are seeking and basis for such amount). Monetary Compensation \$500,000.00

VI. Previous lawsuit:

On these claims

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No XX

- B. If your answer to A is yes, describe each lawsuit by answering questionings 1 through 7 below. (If there is more than one law suit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district, if state court, name the county) _____

3. Docket or index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No XX

7. What was the result of the case? (For example: Was the case dismissed? Was there Judgment in your favor? Was the case appealed? _____

On other claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes _____ No XX

- D. If your answer to C is Yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, Using the same format.)

1. Parties to previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district, if state court, name the county) _____
3. Docket or index number _____
4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____
6. Is the case still pending? Yes _____ No xx
7. What was the result of the case? (For example: Was the case dismissed? Was there Judgment in your favor? Was the case appealed? _____)

I declare under penalty of perjury that the forgoing is true and correct.

Signed this 23 day of Nov, 20 21.

Signature of Plaintiff _____

Inmate Number _____

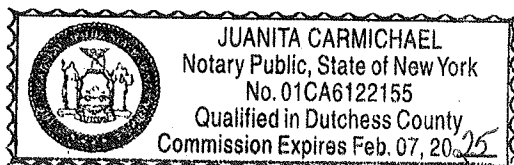
Institution Address _____

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 23 day of Nov, 20 21, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Sworn to before me this
23 day of NOVEMBER 2021
J. Carmichael
Notary Public

Signature of Plaintiff _____



Downstate

Correctional Facility

T13

INMATE MISBEHAVIOR REPORT ♦ INFORME DE MAL COMPORTAMIENTO DEL RECLUSO

1. NAME OF INMATE (Last, First) ♦ NOMBRE DEL RECLUSO (Apellido, Nombre) LABOSSIERE, WILFRED		NO. ♦ NÚM. 14A2683	HOUSING LOCATION ♦ CELDA 4A65
2. LOCATION OF INCIDENT ♦ LUGAR DEL INCIDENTE 4A65 (small locker)		INCIDENT DATE ♦ FECHA 12/11/19	INCIDENT TIME ♦ HORA Approx 10:00 am
3. RULE VIOLATION(S) ♦ VIOLACIONES 113.25 Drug Possession			
4. DESCRIPTION OF INCIDENT ♦ DESCRIPCIÓN DEL INCIDENTE ON THE ABOVE DATE AND APPROXIMATE TIME A K-9 BLOCK SEARCH WAS CONDUCTED ON BLOCK 4A BY CSI INVESTIGATOR SKYSEY. T CO A1 BAXTER WAS THE OFFICER IN CHARGE OF RUNNING BLOCK 4A THAT DAY. DURING THE SEARCH THE K-9 DOG WAS ALERTED TO AN ODOR COMING FROM THE SMALL LOCKER IN CELL 4A65 WHICH HOUSES INMATE LABOSSIERE, W/ 14A2683. THE K-9 INVESTIGATOR NEEDED ASSISTANCE IN OPENING THE LOCKED SMALL LOCKER. T UNLOCKED AND OPENED THE SMALL LOCKER TO WHICH THE K-9 DOG WAS ALERT TO TRAIL THE SMELL TO WHITE BOTTLE MARKED BABY POWDER. UPON OPENING THE BOTTLE T CO A1 BAXTER FOUND A SMALL BAG WITH WHICH APPEARED TO BE A GREEN LEAFY SUBSTANCE AND TWO ROLLING PAPERS ITEMS CONFISCATED AND TESTED TO BE POSITIVE TO MARIJUANA AND IS 16 GRAMS. INMATE LABOSSIERE W/ IS NOW KEPT LOCKED AREA SUPERVISOR IS NOTIFIED.			
REPORT DATE ♦ FECHA 12/11/19	REPORTED BY ♦ NOMBRE DE LA PERSONA QUE HACE EL INFORME N BAXTER	SIGNATURE ♦ FIRMA N BAXTER	TITLE ♦ TÍTULO CO
5. ENDORSEMENTS OF OTHER EMPLOYEE WITNESSES (if any) ENDOSOS DE OTROS EMPLEADOS TESTIGOS (si hay)		SIGNATURES: FIRMAS: 1. _____ 2. _____ 3. _____	

NOTE: Fold back Page 2 on dotted line before completing below.

DATE AND TIME SERVED UPON INMATE @ 12/11/19 @ 9:00 AM

NAME AND TITLE OF SERVER CO J. RICHARDSON

FECHA HORA DADO AL RECLUSO

NOMBRE Y TÍTULO DEL QUE ENTREGA

You are hereby advised that no statement made by you in response to the charges or information derived therefrom may be used against you in a criminal proceeding. ♦ Por este medio se le informa que no se puede usar ninguna declaración hecha por usted como respuesta al cargo o la información derivada de ella en una demanda criminal.

NOTICE ♦ AVISO

REVIEWING OFFICER (DETACH BELOW FOR VIOLATION HEARING ONLY)

You are hereby notified that the above report is a formal charge and will be considered and determined at a hearing to be held. ♦ Por este medio se le notifica que el informe anterior es un cargo formal el cual se considerará y determinará en una audiencia a celebrarse.

The inmate shall be permitted to call witnesses provided that so doing does not jeopardize institutional safety or correctional goals. ♦ Se le permitirá al recluso llamar testigos con tal de que al hacerlo no pondrá en peligro la seguridad de la institución o los objetivos del Departamento.

If restricted pending a hearing for this misbehavior report, you may write to the Deputy Superintendent for Security or his/her designee prior to the hearing to make a statement on the need for continued prehearing confinement. ♦ Si está restringido pendiente a una audiencia por este informe de mal comportamiento, puede escribirle al Diputado del Superintendente para Seguridad o su representante antes de la audiencia para que haga una declaración acerca de la necesidad de continuar bajo confinamiento, previo a la audiencia.

Distribution: WHITE - Disciplinary Office CANARY - Inmate (After review) ♦ Distribución: BLANCA - Oficina Disciplinaria AMARILLA - Recluso (después de la sesión)

NEW YORK STATE
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
THE HARRIMAN STATE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, N.Y. 12226-2050

ANTHONY J. ANNUCCI
ACTING COMMISSIONER

JAMES O'GORMAN
DEPUTY COMMISSIONER
CORRECTIONAL FACILITIES

REVIEW OF SUPERINTENDENT'S HEARING

NAME: LABOSSIERE, WILFRED

NO. 14A2683

HEARING FACILITY: DOWNSTATE

ON BEHALF OF THE COMMISSIONER, PLEASE BE ADVISED THAT YOUR
SUPERINTENDENT'S HEARING OF DECEMBER 19, 2019, HAS BEEN REVIEWED AND
ADMINISTRATIVELY REVERSED ON NOVEMBER 16, 2020.

D. VENETTOZZI
DIRECTOR, SPECIAL HOUSING/
INMATE DISCIPLINARY PROGRAM

CC: FACILITY SUPERINTENDENT
CENTRAL OFFICE FILES

APPEAL DECISION RENDERED PURSUANT TO SECTION 254.8 OF CHAPTER V AND
ELECTRONICALLY PRODUCED UPON THE AUTHORITY OF THE DIRECTOR OF SPECIAL
HOUSING/INMATE DISCIPLINE PROGRAM.

Inmate Grievance Complaint

Downstate Correctional Facility

Wilfred Labossiere

Housing Unit 4-F-1

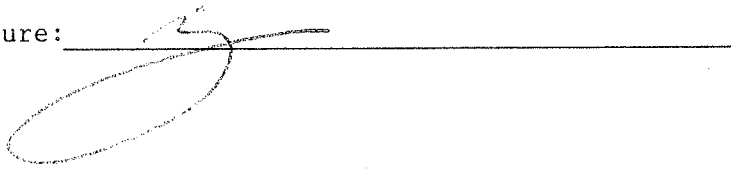
Program: 3 Complex Law Library

Description of Problem: On July 13, 2019 Officer N. Baxter working 3 to 11 shift interfered with my access to treatment and was deliberately indifferent to my health. He refused to follow doctor's orders for my treatment for an invasive surgery performed on my rectum on June 29, 2019. As the surgical area which was still bleeding and draining would be exposed to fecal matter on the open wound after a bowel movement, I must shower to prevent infection by cleaning the area in a shower with running water.

An extension of the original order was given to the Block Officer on July 11, 2019 in the form of a shower pass. Officer N. Baxter refused my two requests for a shower (which was next door to my cell). Yet, he allowed cells F8, F5, F27, F2, and F30 all out to walk their training dogs outside the Block and check the laundry in the washing machine. The Officer's indifference to my medical treatment violated my Eight Amendment Right.

Officer's behavior in refusing to follow doctor's orders of my health sanitary duties, yet allowing others in the same Block to perform their sanitary duties of dogs is a violation of rights and put me at risk for infection and Septis Blood causing serious illness or death. This is the second of such behavior as the first was on February 10, 2017. Now with doctor's orders to the Block Officers there is a clear question to inflict harm and denude any entitlement to me. Any transfers, disciplinary, or adverse actions by any staff will be considered retaliation.

Action Requested By Inmate: Disciplinary action immediately against Officer Baxter to hold accountable for the extreme lack of professionalism in handling the care of people. To be free of cruel and unusual punishment. Also, disciplinary action—as he would share private information from Prisoner's PSI Report to other prisoners.

Grievant Signature: 

DOWNSTATE CORRECTIONAL FACILITY

TO: Security

FROM: Medical

RE: Name: _____

Number: _____

Cell: _____

DATE: 12/10/21

☒ Feed on Gallery _____ days

☒ Rec on Gallery _____ days

☐ No Recreation _____ days

☐ No Shave _____ days

☐ Cane Pass _____ days

☐ Crutch Pass _____ days

☐ Sneaker Pass _____ days

☒ _____

Restricted to cell for _____ days

Should report to sick call on _____

Date: 12/10/21

Nurse Signature

Physician or PA Signature

All restrictions will continue through the expiration date.

Inmate Grievance Complaint

Downstate Correctional Facility

Wilfred Labossiere

Housing Unit 4-F-1

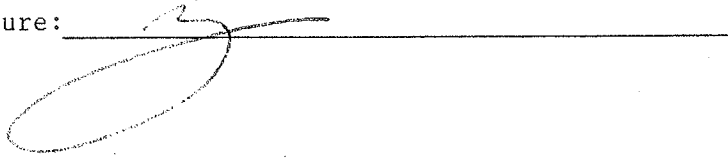
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Grievant Signature: 

DOWNSTATE CORRECTIONAL FACILITY

TO: Security

FROM: Medical

RE: Name: _____

Number: _____

Cell: _____

DATE: 7/1/21

☒ Feed on Gallery _____ days

☒ Rec on Gallery _____ days

☐ No Recreation _____ days

☐ No Shave _____ days

☐ Cane Pass _____ days

☐ Crutch Pass _____ days

☐ Sneaker Pass _____ days

☒ 12/1/21 to 12/31/21

Restricted to cell for _____ days

Should report to sick call on _____

Date: 7/1/21

Nurse Signature

Physician or PA Signature

All restrictions will continue through the expiration date.

FORM 21312E (REVERSE) (9/12)

Response of IGRC:

DS-5655-19-23

IGRC recommends for before reference
 shaver process should be more expedient as to
 need who drafting subject to be according
 to HIPAA...

Date Returned to Inmate:

8/17/19

IGRC Members:

Chairperson:

Sue Villan

Return within 7 calendar days and check appropriate boxes.*

☒ I disagree with IGRC response and wish to
 appeal to Superintendent.

☐ I have reviewed deadlocked responses.
 Pass-Thru to Superintendent.

☐ I agree with the IGRC response and wish to
 appeal to the Superintendent.

☐ I apply to the IGP Supervisor for
 review of dismissal.

Signed:

Grievant

Date

Grievance Clerk's Receipt

Date

To be completed by Grievance Clerk.

Grievance Appealed to the Superintendent:

Date

Grievance forwarded to the Superintendent for action:

Date

DOWNSTATE CORRECTIONAL FACILITY

TO: Security

FROM: Medical

RE: Name: Labossiere, Wilfred

Number: 14A2583

Cell: 4E-7

DATE:

X Feed on Gallery 7 days

X Rec on Gallery 7 days

C No Recreation 7 days

 No Shave days

 Cane Pass days

 Crutch Pass days

 Sneaker Pass days

X Shower Pass AS Needed

Restricted to cell for 2/2 days

Should report to sick call on

Date:

Nurse Signature

Physician or PA Signature

All restrictions will continue through the expiration date.



Corrections and Community Supervision

ANDREW M. CUOMO
Governor

ANTHONY J. ANNUCCI
Acting Commissioner

To: DSS: E. Burnett
From: SGT: R. Fuentes
Subject: Inmate Labossiere, Wilfred 14a2683
Date: 08/10/19

On 07/29/19 at approximately 7:00 pm I interviewed inmate Labossiere, Wilfred 14A2683 in Complex 4 Sergeant's office regarding his complaint against Officer N. Baxter. In the complaint inmate Labossiere claims Officer N. Baxter refused to follow Doctors orders by refusing to allow him to use the shower but allowed others to come out the cells to walk their dogs. During the interview the inmate informed me that in the date in question all inmates were secured in their cells because of an electrical problem.

On 8/10/19 at approximately 7:05pm I contacted Officer N. Baxter by telephone regarding this complaint as he is scheduled to return on 8/29/19 and I will be out then.

Officer N. Baxter informed me that on 7/13/19 He worked Housing Unit 4F on the 3-11 shift and due to an electrical issue, all inmates were secured in their cells. He stated that he allowed some inmates out the cells to walk their dogs only after it was authorized by the Watch Commander; as the inmates returned some picked up the laundry. Officer N. Baxter informed me that he had no knowledge of inmate's Labossiere personal or Medical information and would never share such information. Officer Baxter informed me, He was under the impression the inmate was able to accomplish his needs using the water in the cell to clean up as he was unaware of the inmate actual condition or needs. (upon his return the Officer will submit written response)

Respectfully Submitted

A handwritten signature in dark ink, appearing to read "SGT R. Fuentes".
SGT: R. Fuentes

DOWNSTATE CORRECTIONAL FACILITY

TO: Security
FROM: Medical
RE: Name: Wilford - Labarre
Number: 1470523
Cell: 4F - 22

DATE: 7/27/19

☒ Feed on Gallery x 1 month days

☐ Rec on Gallery _____ days

☐ No Recreation _____ days

☐ No Shave _____ days

☐ Cane Pass _____ days

☐ Crutch Pass _____ days

☐ Sneaker Pass _____ days

☒ Shower and needed x 1 month

Restricted to cell for _____ days

Should report to sick call on _____

Date: 7/27/19

Nurse Signature _____

Physician or PA Signature _____

All restrictions will continue through the expiration date.

DOWNSSTATE CORRECTIONAL FACILITY

TO: Security

FROM: Medical

RE: Name: _____

Number: _____

Cell: _____

DATE: _____

____ Feed on Gallery _____ days

____ Rec on Gallery _____ days

____ No Recreation _____ days

____ No Shave _____ days

____ Cane Pass _____ days

____ Crutch Pass _____ days

____ Sneaker Pass _____ days

Restricted to cell for _____ days

Should report to sick call on _____

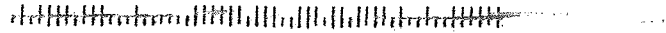
Date: _____

Nurse Signature_____
Physician or PA Signature

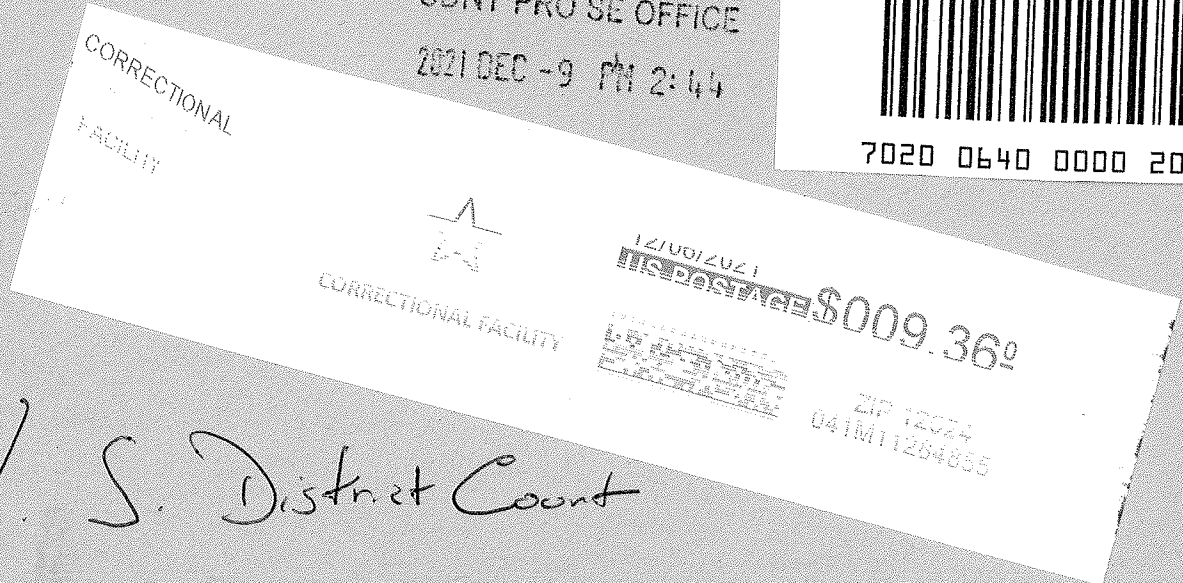
All restrictions will continue through the expiration date.

Wilfred Labossiere
14A2683

Downstate Correctional Facility
Box F
121 Red Schoolhouse Rd
Fishkill NY 12524

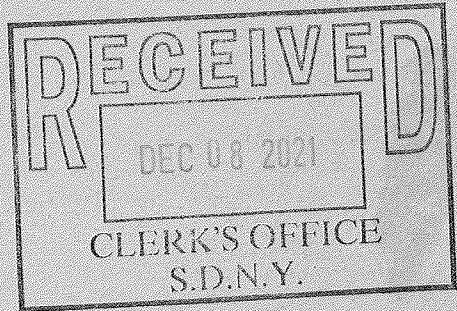


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U. S. District Court
Southern District of New York
500 Pearl Street
New York New York 10007

Pro Se ^{JKR}



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SDNY

Legal Mail

Legal Mail